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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,631	10/08/2004	Klaus Heinrich Lanz	P08410US00/DEJ	1892
881	7590	09/11/2006	EXAMINER	
STITES & HARBISON PLLC 1199 NORTH FAIRFAX STREET SUITE 900 ALEXANDRIA, VA 22314				KUMAR, RAKESH
		ART UNIT		PAPER NUMBER
		3654		

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/510,631	LANZ, KLAUS HEINRICH
	<b>Examiner</b>	<b>Art Unit</b>
	Rakesh Kumar	3654

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 October 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,5-7 and 12-15 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,5-7 and 12-15 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 08 October 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 11/28/2005.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

It is noted, a Preliminary Amendment was filed by the Applicant on October 8, 2004, however the Office on record has received only the cover sheet with no amendments to the claims. Therefore, claims filed on October 8, 2004 with pages marked 23-26 are examined in the Office Action below.

### ***Election/Restrictions***

Claims 2-4 and 8-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claims. Applicant timely traversed the restriction (election) requirement in the reply filed on 07/05/2006.

Applicant's election with traverse of claims 1,5-7 and 12-15 in the reply filed on 07/05/2006 is acknowledged. The traversal is on the ground(s) that there is no burden on the examiner to examine all the species. This is not found persuasive because the consideration of diverse issues of patentability related to each of the species would constitute a serious burden on the examiner if all species were examined together.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Objections***

Claims 7-13 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 7-13 have not been further treated on the merits.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Lin (US 5901,404).

Referring to claim 1. Lin discloses an article dispensing assembly (Figure 5-12) said dispenser comprising a magazine (see stack of articles 1 within the two halves of the magazine 20 and 21; Figure 6) for holding a plurality of packets (1) standing in an upright position, means for pushing (22 and 220) the plurality of packets (1) towards a dispensing end (23) of the magazine (halves 20 and 21), means defining a column (column formed by the outlet perpendicular to the magazine halves 20 and 21; Figure 9 and 12) at said dispensing end (23) of the magazine, means for lifting (220) the leading packet (1) of the plurality upwards out of the magazine (halves 20 and 21 near the outlet 23) and into said column (column formed by the outlet perpendicular to the magazine halves 20 and 21;

Figure 9 and 12) and means for supporting (base portion of member 23) a packet (1) that has been lifted into said column to prevent the packet from dropping back down said column.

Regarding claim 5, Lin discloses an article dispensing assembly (Figure 5-12), wherein said means for pushing (22 and 220) the packets (1) towards the dispensing end (23) of the magazine (halves 20 and 21) comprises a pressure plate (220) and a spring (22).

Claim 14 rejected under 35 U.S.C. 102(b) as being anticipated by Millies (US 3,862,704).

Referring to claim 14. Millies discloses a packet vending apparatus (Figure 4 and 5) wherein the apparatus comprises a first compartment (50) having a top surface on which a cash register can stand, a second compartment (consisting of vertical path taken by bucket 95; Figure 4 and 5) which is vertically elongate, one end of the first compartment (50) communicating with the lower end of the second compartment (see Figure 4 and 13), a plurality of dispensers (see multiple magazine stacks in Figure a and 4) as defined above in said compartments, said magazines (50) being side-by-side in the first compartment and said columns being side-by-side in the second compartment (see Figure 4).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Lin as applied to claim 5 above, and further in view of Offutt (US 4,369897).

Referring to claim 6. Offutt discloses a product dispensing apparatus (Figure 3) wherein said spring (84) is an elongate leaf spring which is wound to coil form (80), the inner end of the wound coil being fixed (near member (88) and the outer end of the coil being attached to the pressure plate (see member 82).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Lin to include a biasing means comprising a leaf spring wound in a coil as taught by Offutt to apply pressure to the pressure plate to drive the movement of the articles because using a coiled leaf spring would reduce the size of the dispenser.

Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Millies.

Referring to claim 15. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Millies to include a transparent wall (109; Figure 5) remote from the first compartment (50), having a transparent window so that packets in the columns in the second compartment (consisting of vertical path taken by bucket 95; Figure 4 and 5) are visible from outside the dispensing apparatus because the dispensing action can be seen by the user.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RK

August 31, 2006



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